

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**NOT FOR PUBLICATION**

IN RE HOLOCAUST VICTIM ASSETS  
LITIGATION,

**MEMORANDUM & ORDER**

09-CV-3215 (ERK)  
96-CV-4849 (ERK)

KORMAN, J.:

In a separate memorandum dated, July 23, 2014, I denied Edward D. Fagan's, one of plaintiff's class counsel in *Holocaust Victims Assets Litigation*, No. 96-cv-4849, motion, pursuant to 28 U.S.C. §§ 144 and 455(a), (b)(1), to recuse myself from this matter. As explained in that memorandum, Mr. Fagan has simply not shown any basis for his belief that I am biased against or prejudiced towards him.

This Memorandum and Order explains why I am directing the Clerk of the Court to enter a Judgment against Mr. Fagan in favor of the Swiss Banks Holocaust Settlement Fund. Specifically, Mr. Fagan failed to adequately respond to an Order to Show Cause, dated July 31, 2009, which directed him to provide an explanation in writing as to why he failed to disclose in his application for reimbursements certain contributions he had received in the amount of \$186,352.50 for disbursements of the kind for which he claimed – and ultimately was awarded – reimbursement from the Settlement Fund. Order to Show Cause, dated July 31, 2009; Order Granting App. for Attorney's Fees and Expenses to Edward D. Fagan (Dec. 4, 2002). I issued the Order to Show Cause after affording Mr. Fagan numerous opportunities to provide a response to that question. *See* Letters from Judge Korman to Edward Fagan (Jan. 26, 2009) &

(June 18, 2009). Mr. Fagan's response to my January 26, 2009 letter did not answer my question. *See* Letter from Edward Fagan to Judge Korman (Mar. 2, 2009). Instead, he provided excuses as to why he could not answer. Moreover, when I again requested an explanation in June 2009, Mr. Fagan failed to respond at all. This prompted me to issue the Order to Show Cause.

In response to the Order to Show Cause, Mr. Fagan refused, once again, to provide an answer to my questions regarding his failure to disclose the over \$185,000 in contributions he received of the kind for which he sought, and was awarded, reimbursement. *See* Affidavit of Edward D. Fagan, dated August 21, 2009. Instead, he has reiterated his claim that he is unable to respond because his files were unlawfully taken from him. *Id.* Nevertheless, as I wrote in the Order to Show Cause, "Mr. Fagan's representation [i]s not true. Indeed, the records had not been taken from him; he abandoned them after the Settlement Fund had made extraordinary efforts to rescue these same files from destruction." *Id.* (citing *In re Edward D. Fagan*, No. XIV-00-135E, DRB 08-143, at 85-87 (N.J. Jan. 16, 2009)). In sum, Mr. Fagan has failed to provide an answer to my question or a satisfactory excuse as to why he is unable to so respond.

Therefore, it is hereby by ORDERED that the Clerk of the Court enter a Judgment against Mr. Fagan in favor of the Swiss Banks Holocaust Settlement Fund, in the amount of \$186,352.50.

**SO ORDERED.**

Brooklyn, New York  
July 23, 2014

/s/  
Edward R. Korman  
Senior United States District Judge